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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,628

01/28/2004

Mike Binnard

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5665

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02/09/2006

The Law Office of Steven G. Roeder
5560 Chelsea Avenue
La Jolla, CA 92037

EXAMINER

GUTIERREZ, KEVIN C

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/767,628	Applicant(s) BINNARD, MIKE	
	Examiner Kevin Gutierrez	Art Unit 2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 4-25 and 29-50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks (pages 15-20), filed December 12, 2005, with respect to the claims and specification have been fully considered and are persuasive. The objection(s) to the claims and disclosure and rejection(s) under **35 USC 102(b)** and **35 USC 103(a)** of the claims has been withdrawn.
2. Regarding the *Rejections for Double Patenting*, (Remarks, page 16-17), the Applicant asserted that the limitations of claims 1-3 and 26-28 of prior U.S. Patent No. 6,757,053 are of different scopes and are not in the present application.

However, the present claims are broader and thus are fully met by the prior patent. In this case, claims 1-3 of the present application correspond to claim 3 respectively of prior U.S. Patent No. 6,757,053.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent

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either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-3 and 26-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of prior U.S. Patent No. 6,757,053. The conflicting claims are similar and are not patentably distinct. Therefore, the patentable claims of the present application are anticipated by the patented claims of the prior art.

With respect to the method claims, it would be obvious to use the claimed invention to perform the functions of the claimed methods.

Regarding claims 1 and 26,

- “A stage assembly that moves a device relative to a mounting area, the stage assembly comprising (col. 34, lines 45-46):

- a stage that retains the device (col. 34, line 47)
- a stage mover assembly connected to the stage, (col. 34, line 48)
- the stage mover assembly moving the stage along a first axis and generating reaction force, (col. 34, lines 48-50, where the stage is movable in at least two degrees of freedom) and

- a reaction assembly coupled to the stage mover assembly (col. 34, lines 52-54 where the reaction assembly is the reaction mass assembly),

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- the reaction assembly including a first reaction subassembly (col. 34, lines 52-53) where first reaction assembly is the X reaction component) having a first mass that is movable along the first axis (col. 34, line 55 and lines 58-60; where first mass is the first X reaction masses and is movable along an axis),

- a second reaction subassembly (col. 34, line 57 and lines where second reaction assembly is the Y reaction component) having a second mass that is movable along the first axis (col. 34, line 57, lines 60-62; where the second mass is the Y reaction masses and is movable along an axis) and

- a connector assembly (col. 34, line 66, where connector assembly is the connector) that connects the reaction subassemblies together (col. 34, lines 66-67, where the X reaction masses are connected to the Y reaction mass which connects the X and Y reaction components),

- allows for relative movement of the masses with at least one degree of freedom (col. 34, line 67 and col. 35, line 1) and

- inhibits relative movement of the masses with at least one degree of freedom (col. 35, lines 1-2).”

Regarding claims 2 and 27,

- “wherein the stage mover assembly moves the stage with two degrees of freedom (col. 34, line 48-50),
- the reaction assembly reduces the reaction forces in the two degrees of freedom that are transferred to the mounting area (col. 34, line 63-65), and
- the connector assembly allows for relative movement of the masses with at least two degrees of freedom (col. 34, line 67 and col. 35, lines 1-4 where the two degrees of freedom are the x and y-axes).”

Regarding claims 3 and 28, claim 3 (6,757,053) further includes “the connector assembly allows for relative movement of the masses along the first axis and inhibits relative movement of the masses along the second axis (col. 34, lines 66-67 and col. 35, lines 1-4; where the first axis is the X axis and the second axis is the Y axis). Claims 3 and 28 do not include “wherein the stage mover assembly moves the stage along a first axis and along a second axis, the axes being orthogonal to each other.”

However, it would be obvious to have a stage mover move along a first axis and second axis as set forth in claim 4 (col.35, lines 8-10, where the X and Y axis are orthogonal axes). Thus, it would have been obvious to one ordinary skilled in the art at the time the invention was made to modify claims 3 and 28 (6,757,053) in a matter described above for at least the purpose to provide versatile movement.

Claim Objections

5. Claims 4-25 and 29-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Gutierrez whose telephone number is (571)-272-5922. The examiner can normally be reached on Monday-Friday: 7:30 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571)-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William Perkey
Primary Examiner

Kevin Gutierrez
Examiner
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February 2, 2006